

Title 17

ZONING

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Chapter 17.04

GENERAL PROVISIONS

Sections:

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17.04.010 Short title. This chapter shall be known and may be cited as the "zoning ordinance of the city." (Ord. 7-19-84 §1(part), 1984; prior code §23.05.010)

17.04.020 Purpose. In accordance with the general comprehensive plan of the city, and as authorized by the statutes of the state, this title is intended to insure the following benefits to the citizens:

- A. To promote the health, safety and welfare of the community;
- B. To enhance pedestrian and vehicular movement with the least detriment to environmental quality;
- C. To secure the safety of the people against fire hazards, avalanche, unstable slopes, rockfall, mudslides and flood danger;
- D. To provide adequate light and open space and avoid undue concentration of population;
- E. To provide clean air by reducing pollutants into the air;
- F. To protect water sources by maintaining the natural watershed, preventing accelerated erosion, reducing runoff and consequent sedimentation, and eliminating pollutants introduced directly into streams;
- G. To prevent the overcrowding of land and avoid transportation and service demands that cannot be satisfied;
- H. To facilitate adequate provision of water, sewage, schools, parks, open space, hospital, recreation and other public requirements;
- I. To maintain the natural scenic beauty of the city;
- J. To provide for phased development of government services and facilities and to aid in realizing the policies, objectives and goals of the city's comprehensive plan;
- K. To encourage innovations in residential development and renewal so that the growing demand for housing may be met by greater variety in type and design of dwellings and by the conservation of more efficient and attractive use of open space;
- L. To advance a more effective use of land and a higher quality of site planning reflecting improvements in the technology of land development;
- M. To regulate the use of land primarily on the basis of the impact on the community;
- N. To provide a planned and orderly use of land and protection of the environment - D conserve the value of the investments of the people of the community. (Ord. 7-19-84 §1(part), 1984; prior code §23.05.020)

17.04.030 Applicability.

- A. No building, structure, land or water area shall be used or occupied, and no building, structure, sign, or part thereof shall be erected, constructed, reconstructed, moved, repaired or structurally altered except in conformity with the regulations specified in this title for the district in which it is located.

B. Within each district, the regulations set by this title shall be minimum regulations and shall apply uniformly to each class or kind of building, structure, sign, land or water area.

C. Uses designated as permitted within a given district are allowed as a matter of right and without special authorization. The establishment of any permitted use is subject only to the obtaining of a building permit, and conformance to the requirements of this title. Uses designated as conditional within a given district are allowed only when and if a conditional use permit is granted in accordance with procedures described in Chapter 17.28. (Ord. 7-19-84 §1(part), 1984; prior code §23.05.030)

Chapter 17.08

DEFINITIONS

Sections:

17.08.010 Definitions.

17.08.010 Definitions. In this title unless the context otherwise requires:

- A. "Accessory," as applied to a use or a building or a structure, means customarily subordinate or incidental to, and located on the same lot with a principal use, building or structure.
- B. "Alley" means a public way permanently reserved as a secondary means of access to abutting property.
- C. "Basement" means that area of a structure fifty percent or more of which is below grade, subordinate to the principal use of the building, and used for parking, storage, and other secondary purposes. Those areas beneath a basement shall be designated sub-basement(s).
- D. "Building" means any permanent structure built for the shelter or enclosure of persons, animals, or property of any kind, and not including advertising sign boards or fences.
- E. "Building, height of" means the vertical distance from the average elevation of the finished grade to the highest point of the coping of a flat roof or to the average length of the highest gable of a pitch or hip roof.
- F. "Business and commercial" means offices, retail shops, restaurants and hotels.
- G. "Commercial fishing operation" means the catching and processing of seafood for wholesale.
- H. "Common wall" means a wall or walls extending from the basement or ground floor line of a building to the roof.
- I. "Day(s)" means working day(s), Monday through Friday exclusive of federal and state holidays.
- J. "Day care center" means a commercial enterprise where more than five children are cared for during the day.
- K. "Dwelling" means a building constructed on a permanent foundation which is used as the private residence or sleeping place of one or more human beings, but not including hotels, motels, lodge units, clubs, hospitals, temporary structures such as tents, trailers, quonset huts or similar units.
- L. "Dwelling, duplex" means a detached principal building containing only two dwelling units sharing a common ceiling and floor, in whole or in part, connecting two dwelling units.
- M. "Dwelling, multiple-family" means a dwelling containing three or more dwelling units, not including motels, hotels and lodges, with accessory use facilities limited to an office, laundry, recreation facilities and off-street parking used by the occupants.
- N. "Dwelling, single-family" means a detached principal building, other than a mobile home, designed for and used as a dwelling exclusively by one family as an independent housekeeping unit.
- O. "Family" means one or more persons related by blood, marriage or adoption, occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a roominghouse, or hotel.
- P. "Garage, private" means a building located off a street, alley or private drive which is adequate for parking automobiles with room for opening doors, and which is enclosed on all sides. Such space may be part of another structure and/or be combined with other enclosed spaces in a single structure.
- Q. "Home occupation" means a profession, service or craft conducted entirely within a dwelling unit by the permanent inhabitants only, which is clearly incidental and secondary to the use of the dwelling and does not change the character or appearance of the dwelling.

R. "Hotel" means any building containing six or more rooms intended or designed to be used, rented, or hired out, or to be occupied for living purposes by transients.

S. "Houseboat" means a floating, waterborne dwelling unit.

T. "Junkyard" means a yard or parcel of land, or portion thereof, used for collecting, storage, or sale of wastepaper, scrap metal or discarded materials; or for the collecting, dismantling, storage, salvaging or demolition of vehicles, machinery, boats or other materials.

U. "Lot" means a parcel of land shown as an individual unit on the most recent plat of record.

V. "Lot area" means the total horizontal area within the lot lines of a lot except that beneath the mean high water mark of a body of water.

W. "Lot coverage" means that percentage of the total area covered by buildings.

X. "Lot depth" means the shortest horizontal distance between the front and rear lot lines measured in the mean direction of the side lot line.

Y. "Lot line, front" means the property line dividing a lot from a street.

Z. "Lot line, rear" means the property line opposite the front lot line.

AA. "Lot line, side" means any lot lines other than front or rear lot lines.

BB. "Lot width" means the distance between the side lot lines measured congruent with the front yard setback line.

CC. "Marine service" means wet or dry moorage, launching ramps, haulout facilities, marine construction and repair.

DD. "Meeting hall or club" means a building devoted to public use including but not limited to such facilities as golf clubhouse, swimming pool clubhouse, lodge halls, tennis clubhouse, playground and activity centers and may include kitchen facilities, assembly halls, meeting rooms, locker facilities, etc.

EE. "Mobile home" means a detached, single-family dwelling designed for long-term habitation and having complete living facilities, constructed and fabricated into a complete unit at a factory and capable of being transported to location of use on its own chassis and wheels; identified by a model number and serial number by its manufacturer.

FF. "Mobile vendor" means a seasonally conducted commercial enterprise in a building, vehicle or enclosure which is designed for relocation with minimal effort.

GG. "Neighborhood commercial" means a commercial use such as a small grocery store, general or specialty stores which furnish convenience goods and services to meet the daily needs of the residents of the neighborhood.

HH. "Nonconforming use" means the use of a structure or premises or any portion thereof, legal at the time established, but in conflict with the provisions of this chapter or any amendments.

II. "Person" means a corporation partnership, joint venture, other legal entity, public agency as well as an individual.

JJ. "Parking, public" means a structure or open area other than a street, alley or other right-of-way which is used for the parking of automobiles and available for public use.

KK. "Planned unit development" means a group or combination of certain specified residential, commercial and/or industrial uses developed as a functional and integral unit. See Section 17.16.080.

LL. "Professional office" means a use intended for physicians, dentists, lawyers, architects, engineers, accountants, and others, who, through training, are qualified to perform services of a professional nature, and where limited storage exists.

MM. "Recreation uses" means recreational activities such as but not limited to camping, hiking, boating and fishing on land devoted to public or private use, conducted outside or inside a permanent building.

NN. "Retail" means a business which provides upon demand sale of goods, aid, maintenance, repair, treatment or experienced assistance, to the public at the individual level. This definition does not include the practice of a learned profession nor wholesale activities involving stock in trade on the premises.

OO. "Roominghouse" means any building containing less than six rooms intended or designed to be used, rented or hired out or to be occupied for living purposes by transients.

PP. "Sign" means any device fixed to, painted on, or incorporated on the building surface, and which is visible from the public right-of-way and designed to convey or direct a message to the public concerning the identification of the premises and is no greater than sixty-four feet in size and with indirect lighting.

QQ. "Sign area" means the area of the geometric figure which encompasses the facing of a sign, including copy, insignia, background and borders. This may not exceed sixty four square feet.

RR. "Street" means a public way other than an alley, which affords the principal means of access to abutting property.

SS. "Structure" means anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, but not including fences or walls used as fences less than six feet in height, poles, lines, cables, or other transmission or distribution facilities of public utilities.

TT. "Use" means the purpose for which land or a building is designated, arranged, or intended, or for which it either is or may be occupied or maintained.

UU. "Yard" means an open space, not in an alley or street, unoccupied and unobstructed from the ground upward, except as otherwise provided in this title.

VV. "Yard, back" means a yard extending the full width of the lot or parcel the depth of which is measured in the least horizontal distance.

WW. "Yard, front" means a yard extending the full width of the lot or parcel the depth of which is measured in the least horizontal distance between the front lot line and the nearest wall of the principal building, such distance being referred to as the front yard setback.

XX. "Yard, side" means a yard extending from the front yard to the rear yard, the width of which is measured in the least horizontal distance between the side lot line and the nearest wall of the principal building. (Ord. 7-19-84 §1(part), 1984: prior code §23.15.010)

Chapter 17.12

ZONING DISTRICTS AND OFFICIAL MAP*

Sections:

- [17.12.010 Designated.](#)
- [17.12.020 Determination.](#)
- [17.12.030 Zoning map—Established.](#)
- [17.12.040 Zoning map—Changes.](#)
- [17.12.050 Zoning map—Authority.](#)
- [17.12.060 Zoning map—Interpretation.](#)
- [17.12.070 Applicability to public agencies.](#)

—*Prior ordinance history: Prior code §21.30.070.

17.12.010 Designated. The city is divided into zoning districts as named and described in Chapter 17.12 of this title. (Ord. 7-19-84 §1(part), 1984: prior code §23.10.010(A))

17.12.020 Determination. If a question arises as to whether a specific use does or does not come within any of the use categories or districts, any person may apply to the planning commission for a determination as to whether a specified use is permitted. Determination shall be made on an analysis of the intention of the district and compatibility of the proposed use with existing and permitted uses. (Ord. 7-19-84 §1(part), 1984: prior code §23.10.010(B))

17.12.030 Zoning map—Established. The location and boundaries of the zoning districts herein established are set forth on the zoning map of the city. The zoning map, together with all explanatory matter thereon, is adopted by reference and declared to be a part of this title as if fully set forth herein. (Ord. 7-19-84 §1(part), 1984: prior code §23.10.020(A))

17.12.040 Zoning map—Changes. If, in accordance with the provisions of this title, changes are made in zoning district

boundaries or other matters portrayed on the official zoning map, such changes shall be entered on the map promptly after amendment. (Ord. 7-19-84 §1(part), 1984: prior code §23.10.020(B))

17.12.050 Zoning map—Authority. Regardless of the existence of purported copies of the zoning map which from time to time may be made, the official zoning map which shall be located in the office of the city clerk shall be the final authority as to the current zoning status of land, water areas, buildings and other structures of the city. (Ord. 7-19-84 §1(part), 1984: prior code §23.10.020(C))

17.12.060 Zoning map—Interpretation.

A. Zoning district boundaries are intended to follow lot lines, centerlines of alleys, streets or rights-of-way, or watercourses.

B. Where zoning district boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be the boundary lines.

C. Where a zoning district boundary line divides a parcel of property, the location of such boundary line, unless indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale. (Ord. 7-19-84 §1(part), 1984: prior code §23.10.030)

17.12.070 Applicability to Public agencies. The provisions of this title, to the extent permitted by law, shall apply to all public bodies, districts and agencies of the federal, state and municipal governments. (Ord. 7-19-84 §1(part), 1984: prior code §23.10.040)

Chapter 17.16

DISTRICT REGULATIONS

Sections:

- 17.16.010 Generally.**
- 17.16.020 SFR—Single-family residential district.**
- 17.16.030 MF—Multifamily district.**
- 17.16.040 C—Commercial district.**
- 17.16.050 I—Industrial district.**
- 17.16.060 H—Small boat harbor district.**
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- 17.16.090 Planned unit development—Application requirements.**
- 17.16.100 Planned unit development—Density.**
- 17.16.110 Planned unit development—Mandatory—When.**
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- 17.16.220 Designation and recordation.**
- 17.16.230 Table of allowed uses.**
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17.16.010 Generally. Sections 17.16.020 through 17.16.080 describe the intent and purpose of each of the zoning districts. These descriptions may be used by developers, the planning commission and zoning administrator to guide uses in the districts and to ensure that special conditions for conditional uses are appropriate. Specific descriptions of uses in the districts are found under the table set out in §17.16.230. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.010)

17.16.020 SFR—Single-family residential district. This district is intended to provide a low density single family residential area where public sewer and water are unlikely to be provided. This district is generally applied to existing subdivided areas where environmental conditions such as steep slopes, marginal soil and shallow bedrock make higher density development difficult. The district recognizes the need for affordable housing and limited commercial uses which serve the immediate neighborhood but not the entire city. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.020)

17.16.030 MF—Multifamily district. This district is intended to provide an area for multifamily residential uses either as a single building or as a number of buildings on a lot. This is an area where the primary use is residential but other compatible uses such as retail sales and offices are conditionally allowed. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.030)

17.16.040 C—Commercial district. This district is intended to foster a concentrated area of shopping, entertainment, office facilities and tourist-oriented development in a compact, convenient and pleasant pedestrian-oriented community center. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.040)

17.16.050 I—Industrial district. This district is intended to provide an area for manufacturing, storage, shipping terminals and railroad-related uses. This is an area of development which is generally not compatible with residential and commercial uses because of conflicts from vehicle traffic, noise, dust and danger. The area is characterized by loading docks, railroad yards, storage buildings, and wholesale commercial enterprises. This is an area which provides for those marine uses which are not compatible with the small boat harbor. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.050)

17.16.060 H—Small boat harbor district. This district is intended to provide for use in and protect areas which are adjacent to the small boat harbor. The predominant nature of this areas is recreational marine use and some limited commercial activity. Development in this area must be compatible with the waterfront as recreational harbor with secondary commercial fishing activity. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.060)

17.16.070 OS—Open space district. This district has two main purposes. It is intended to act as a holding area for lands which require infrastructure development such as roads, water, sewer and power. It also is intended to protect environmental resources such as watersheds and scenic areas. Development permitted within this district must not interfere with known future major projects, such as the Shotgun Cove Small Boat Harbor, or destroy scenic values or pollute the air, land or water. Rezoning to another district is not appropriate unless adequate services and infrastructure are available and/or city approved planning has been accomplished. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.070)

17.16.080 PUD—Planned unit development—Generally.

A. The intent of this district is to permit flexibility and provide performance criteria for planned unit developments which will have the following results:

1. A maximum choice in the type of environment and living area available to the public;
2. Open space and recreation areas;
3. A pattern of development which preserves trees, shorelines, natural topography and geologic features and prevents soil erosion;
4. A creative approach to the use of land and related physical development;
5. An efficient use of land resulting in smaller networks of utilities-and streets;
6. An environment of stable character in harmony with the surrounding area.

B. Because the significance to the community of these projects, each development may propose its own design and mix of uses. The developer may, in effect, propose specialized restrictions and rules for the area. The city will participate in the design of the development

and receive guarantees of improvements in design and maintenance in return for increased density and uses for the developer's land.

C. The planned unit development (PUD) is designed to provide for small and large scale developments incorporating a variety of uses which are planned and developed as a unit. Such development may consist of individual lots and/or it may have common recreation and open space surrounding clustered buildings.

D. A building permit for any structure or permit to develop in any manner in a planned unit development shall be issued only after the final development plan for each development has been approved by the planning commission. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.080)

17.16.090 Planned unit development—Application requirements. The following conditions must for exist for a PUD proposal to qualify for zoning designation:

A. The tract or parcel of land proposed for PUD development must be in one ownership or the subject of an application filed jointly by the owners of all the property included;

B. The planned unit development must constitute an area of at least twenty-seven thousand square feet unless the land is an area designated mandatory planned unit development on the zoning district map or is otherwise required by this title to be developed according to the provisions of this chapter;

C. The development of residential areas must include open space for the mutual benefit of the entire tract;

D. The project must be designed to provide variety and diversity, so that the maximum long-range benefit may be gained and the unique features of the development or site are preserved and enhanced;

E. The project must be in harmony with its surrounding neighborhood. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.081)

17.16.100 Planned unit development—Density. A planned unit development may be developed with any density if adequate utilities and access are supplied. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.082)

17.16.110 Planned unit development—Mandatory—When. Whenever the zoning district map designates a planned unit development district, all development shall proceed according to this chapter as a planned unit development. Uses allowed in the district prior to approval of the PUD final plan are those in the open space district. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.083)

17.16.120 Planned unit development—Review—General procedures. Each applicant for PUD approval shall be subject to the following phased procedures:

A. Submission of a concept plan as herein required shall initiate the process;

B. Upon approval by the planning commission of the concept plan, the applicant(s) shall receive tentative PUD approval and designation of the subject property. No building permit or permit to develop in any manner shall be issued at this point;

C. Submission of a final development plan shall follow approval of the concept plan;

D. Upon approval by the planning commission of the final development plan, an ordinance shall be prepared and recommended to the city council which references the final development plan as containing the allowed uses and dimensional rules for the PUD area;

E. In addition to complying with the final development plan binding of real property, the applicant must comply with the subdivision regulations of the city prior to receiving building permits or a permit to develop the subject property in any manner whatsoever; provided, however, that nothing herein shall preclude the simultaneous processing of PUD and subdivision application where the circumstances allow;

F. The planning commission may, because of the size or importance to the area of the development, seek additional staff and/or outside professional help to review the project;

G. Amendments of the PUD plan shall be considered only when one or more of the following conditions exist:

1. A clear and obvious hardship would result unless an amendment is granted,

2. There is an error or mistake in the PUD plan,

3. There has been a change in conditions in the surrounding area which would necessitate a change in plan,

4. New information is available that would materially improve the final development plan.

Application for amendments of the planned unit development plan shall be filed with the planning commission and a public hearing held if the amendment involves a substantial change to the PUD as originally approved.

After the consideration of all testimony and evidence presented at the public hearing, the planning commission may amend the planned unit development plan. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.084)

17.16.130 Planned unit development—Approval—Standards. The applicant(s) shall present plans, written statements, and related information in sufficient detail to enable the planning commission to evaluate the proposed development in accordance with the criteria stated below. At the culmination of the concept plan, the applicant must receive the necessary approvals prior to formally proceeding into subsequent phases. Lack of sufficient and continuous progress as defined herein may lead to nullification of all approvals by the planning commission. In determining whether a planned unit development proposal should be approved, the planning commission shall consider the following:

A. Whether the proposed development will be adequately serviced by existing utilities or by utilities included as a part of the proposed development;

B. The existence of adequate roads, either public or private, to insure fire protection, snow removal and road maintenance;

C. The suitability of the site for development considering the slope, ground instability, and the possibility of mud flow, rock falls, wind and avalanche dangers;

D. The effects of the development on the natural watershed, runoff, drainage, soil erosion and consequent effects on water pollution;

E. The possible effects on air and water quality in the immediate area and city-wide;

F. The sight and location of any proposed structure, roads, driveways, or trails and their compatibility with the terrain;

G. Whether proposed grading will result in the least disturbance to the terrain and other natural land features;

H. The placement and clustering of structures and reduction of building height and scale to increase open space and preserve the natural features of the terrain;

I. The specific community benefits which will result from the development of the PUD. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.085)

17.16.140 Planned unit development—Concept plan submittal. An applicant shall make application for approval of a planned unit development by first submitting a concept plan for the development to the planning commission. The concept plan shall include both maps and a written statement and shall show enough of the area surrounding the proposed planned unit development to indicate the relationship of the PUD to adjacent uses, both existing and proposed. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.086(A))

17.16.150 Planned unit development—Concept plan information—Required. Following is required information for the concept plan:

A. Each applicant shall provide sketch maps (ten copies) of the subject property accurately drawn at no less than a 1" = 200' scale. The submitted maps shall show tenfoot contours, all existing natural and manmade features, existing zoning and a vicinity map showing all adjacent property within one-half mile of the applicant's or applicants' land. If the sketch plat does not accurately represent the information shown on subsequently required survey maps, the planning commission shall reserve the right to retract or alter its decision with reference to all elements of approval premised on such discrepancies.

B. Each applicant shall provide a schematic plan (ten copies) identifying use types, locations, densities and acreage consumed by all proposed land uses.

C. A written statement (ten copies) is required outlining present ownership of all land involved within a PUD, a schedule of beginning and completion dates, and a statement of intent concerning the provision of water, sewer and highway improvements noting their feasibility and when and by what means each is intended to be provided. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.086(B))

17.16.160 Planned unit development—Concept plan—Council action. The planning commission shall take the following action on the concept plan:

A. After providing notice in a newspaper of general circulation in the city in not less than one issue to be published at least fifteen days in advance of a regular or special meeting, the planning commission in public hearing, shall review the concept plan and either disapprove, approve as presented or approve subject to modifications.

B. If the concept plan is approved, the planning commission shall authorize a notation on the zoning district map indicating that a concept plan has been approved and that a tentative PUD approval and designation is appropriate. If the concept plan is approved subject to modifications, the notation shall not be authorized until the applicant(s) has filed with the planning commission a written consent to the plan as modified.

C. No building permit or permits to develop the land in any manner may be issued on land within the proposed planned unit development until the final development plan has been approved by the planning commission under the procedures provided in the following sections of this chapter, with the subdivision regulations of the city. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.086(C))

17.16.170 Final plan—Submittal. The applicant(s) shall submit a final plan to the planning commission within eighteen months following the approval of the concept plan by the planning commission. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.087(A))

17.16.180 Final plan—Information required. The final plan shall include ten copies of the following information:

A. A map showing the circulation system, off-street parking areas, loading areas and major points of access;

B. A comprehensive plan shown on a map for all utility services, including storm drainage;

C. Areas, if any, shown on a map, which are proposed to be conveyed, dedicated or reserved for common open space, parks, parkways, playgrounds, school sites, public uses;

D. A site plan showing the density, location of all uses (building, structures, and improvements), and indicating the parking, loading and open areas around buildings and structures. The site plan shall be in sufficient detail to enable the planning commission to evaluate the architectural, landscaping and design features of the planned unit development. At its discretion, the planning commission may require preliminary evaluation and perspective drawings of proposed structures and improvements;

E. A development schedule indicating the approximate date when construction of the total project or stages of the project will be begun and completed;

F. Agreements, provisions or covenants which govern the use, maintenance and continued protection of the planned unit development and any of its common open spaces;

G. Any other information which the planning commission determines to be needed because of any topographic, circulation, traffic, design, siting or other special problems of the proposed PUD;

H. The final plan as required in Sections 17.16.170 through 17.16.210 may be submitted as a preliminary plat for the proposed PUD area. Approval of the final plan shall also mean approval of the preliminary plat for subdivision. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.087(B))

17.16.190 Final plan—Bonding. Bonding guarantees satisfaction in form and amount to cover the cost of improvements needed to complete the project. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.087(C))

17.16.200 Final plan—Hearing. After providing notice in a newspaper of general circulation in the city in not less than one issue to be published at least fifteen days in advance of a regular meeting, the planning commission, in public hearing, shall approve the final plan if it is in substantial compliance with the concept plan, and if it conforms to all other standards applicable to planned unit developments, whether or not considered when the concept plan was approved. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.087(D))

17.16.210 Final plan—Time limit. In granting approval of a planned unit development, the planning commission shall stipulate a time limit within which the PUD shall be begun, completed or both. Failure to meet the time limit set shall void the PUD. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.087(E))

17.16.220 Designation and recordation. After approval of the final plan by planning commission, the zoning map shall be amended to show the PUD designation, and the mayor of the city and the owner(s) shall execute and record in the city clerk's office of the city, an instrument in substantially the same form as follows:

On the ____ day of __, 2__, the Planning Commission of the City of Whittier, Alaska, designated the following described property as Planned Unit Development by its Resolution No. ____ Series of 2____. The development of the property shall be in accordance with the Planned Unit Development on file in the Office of the City Clerk. The above referred to property is located in the City of Whittier and is described as follows....

Mayor, City of Whittier

ATTEST:

BY:

(applicant)

STATE OF ALASKA)

)ss:

CITY OF WHITTIER)

The foregoing instrument was acknowledged before me this ____ day of 2__ by

_____, _____, and _____.

Notary Public, State of Alaska

My Commission Expires: _____

Final approval of the development plan shall bind the development of real property to the uses and density and all other conditions set forth in the final development plan approved for said property. (Ord. 7-19-84 §1(part), 1984: prior code §23.20.088)

17.16.230 Table of allowed uses. Table 1, allowed uses, shall be as follows:

P = Permitted C = Conditional

	Single-family	Multi-family	Commercial	Industrial	Open Space	Small boat harbor
Accessory Residential ¹				P		
Airport				P		
Banks and financial institutions			P			
Barge operations				P		P
Bulk fuel storage and transfer				P		
Campgrounds					P	
Churches	C	C	P			
Clubs, meeting halls			P			
Commercial animal kennel and services		P	P			
Commercial fishing operations			P			P
Commercial garages, auto body shops			C	P		
Day care and elderly centers	C	C	P			
Duplexes	C	P	C			
Ferry terminal				C		P
Freight terminal				P		
Garbage and/or refuse transfer storage and disposal	C	C	C	P		
Hazardous or noxious materials storage				P		
Heavy equipment storage And repair				P		
Heliport and terminals				P		

	Single- family	Multi- family	Commerci cial	Industrial	Open Space	Small boat harbor
Home occupation ²	P	P	P			
Hospitals and health care facilities		C	P			
Hotel		C	P			
Indoor recreation	C	P				
Junkyard				C		
Houseboat	C	C				
Lumber and building material storage yard			P	P		
Manufacturing and whole- saling				P		
Marine services			P	P		P
Mobile home	C	C				
Mobile vendor			C			C
Movie hall and theater			P			
Multifamily		P				
Museum and libraries		P				
Natural resource extraction storage and transfer				P		
Neighborhood commercial ³	C	C				
Parking lots and garages: commercial or private		C	P	P		
Parks, play- grounds, public use areas	P	P	P		P	
Police, fire stations and municipal offices	P	P	P	C		P
Post office	C	P	P			

	Single-family	Multi-family	Commercial	Industrial	Open Space	Small boat harbor
Private garage storage, and related accessory structures	P	P				
Professional offices	C	P	C			
Recreational use	P	P			P	P
Restaurant and cafe		CP				P
Retail fuel sales		C	P		C	P
Retailing of merchandise and services		C	P			P
Retail liquor sales and bars			P			P
Roominghouse		P	X			
Sawmills, log transfer				P		
Seafood processing				P		
Schools and educational uses	C	C	C			
Shipyards				P		
Signs		C	P	P		C
Single-family attached, condominiums		P				
Single-family residential	P	P	C			
Temporary storage: building materials	P	P	C	C		
Utility facilities and structures	C	C	C	C	C	C
Visitor center			C		C	P
Warehouses				P		

TABLE 1
NOTES

1. Accessory Residential Use. One dwelling unit may be occupied as a permanent accessory use and development may occur which is clearly incidental to the permitted principal use and structures. Roominghouses and hotels may be permitted only as temporary residential accessory uses related to specific industrial activities and time tables. Such temporary residential accessory uses shall be removed in accordance with a time limit established by the zoning administrator.

2. Home Occupations. Provided that the primary use and appearance of the area remains or will be residential in nature and generally conforming to the existing development in the surrounding area and/or other areas in this district, and that:

a. There is no change in the outside of the building or premises;

b. No equipment or process shall be used which creates noise, vibration, glare, fumes, or odors, detectable to normal senses off the lot or interference in any radio or television receivers off

the premises, or causes any line voltage fluctuation off the premises. No hazardous or noxious materials shall be used or stored on the premises;

c. No outside storage of materials or stock shall be allowed except on a temporary, less than six months, basis;

d. When located in the principal dwelling, the home occupation must share the same common entrance with the residential use of the building;

e. No traffic parking or utility demands shall be generated by such home occupation, in greater volume than would normally be expected in a residential neighborhood;

f. Home occupation does not include the following occupancies as defined by Table 5-A of the 1979 Uniform Building Code: A, B-1, B-3, B-4, E, H, I and R-1.

3. Neighborhood Commercial. These uses must not generate large volumes of traffic; they must be generally small, compact and compatible with the surrounding neighborhood; and must be located in buildings of residential design, scale, architecture, and exterior materials in order to preserve the residential character of the area. (Ord. 98-88 §2, 1987; Ord. 71-88 §1, 1987; Ord. 7-19-84 §1(part), 1984; prior code §23.20.090)

17.16.240 Table of dimensional requirements.

TABLE 2
DIMENSIONAL REQUIREMENTS

	Single-family	Multi-family	Commercial	Industrial	open Space	Small boat Harbor
Minimum lot area	12,000 sq.ft.	12,000 sq.ft.	7,000 sq.ft.	None	None	1,000 sq.ft.
Minimum setbacks						
Front yard	20	20	20	20	20	None
Side yard	20	20	10	10	20	5 ft.
Rear yard	20	20	10	10	20	None
Buffer from Residential areas	None	None	None	200	None	None
Maximum building or structure height	40	40	40	60	N/A	40
Maximum density residential units	1 per lot	20 per net acre	1 per lot	1 for primary	N/A	N/A
Maximum lot coverage all buildings	40%	60%	70%	70%	N/A	N/A
Parking spaces	1 per du	1 ¼ per du	1 per 400 sq. Ft. floor area	1 per 2 employees	N/A	None

TABLE 2
NOTES

1. Where more stringent state or local codes require greater setbacks, those standards will take precedence over these requirements. State Department of Environmental Conservation well and septic tank separation requirements will increase the minimum lot area for residences using on-site sewer and/or water.

2. In the multifamily, commercial, industrial and small boat harbor districts, lesser side yard setbacks and/or greater building heights may be allowed as a conditional use if the proposed structure meets the state fire code and the design is reviewed and approved by the city fire chief and state fire marshal.

No side yard, front yard, or building height requirement will be modified which decreases any of the following: basic safety, view, fire prevention/suppression capability and/or off-street parking.

Handicap ramps which are 30" or less in height are allowed within the sideyard setback for the small boat harbor lots. Handicap ramps in excess of 30" in height are not permissible in the side yard setbacks for the small boat harbor lots. Handrails on permissible ramps are allowed and are not part of the height restriction. The ramps shall have no roof overhangs. (Ord. 368-97 §2, 1997)

3. Incidental architectural features such as window sills, cornices and eaves may project less than two feet into any residential required yard.

4. Height requirements do not apply to windpower generators, flagpoles, spires, belfries, chimneys, ventilators, communication equipment, lightpoles and temporary construction equipment.

5. Any commercial or industrial use shall provide adequate space on the lot for the loading and unloading of goods and materials so as to avoid conflict with vehicular and pedestrian movement.

6. All dimensional requirements for the planned unit development zoning district are established by the approved final plan.

7. Parking requirements for the commercial and industrial districts may be reduced as a conditional use if a pedestrian/vehicle traffic plan is presented as a part of the request to the planning commission. (Ord. 98-88 §3, 1987; Ord. 7-19-84 §1(part), 1984; prior code §23.20.100)

Chapter 17.20

ADMINISTRATION*

Sections:

[17.20.010 Zoning administrator designated--Duties.](#)
[17.20.020 Planning commission--Establishment.](#)
[17.20.030 Planning commission--Duties generally](#)
[17.20.040 Planning commission--Platting authority.](#)
[17.20.050 Planning commission--Membership.](#)
[17.20.060 Planning commission--Recall of member](#)
[17.20.070 Planning commission--Appointment.](#)
[17.20.080 Planning commission--Term.](#)
[17.20.090 Planning commission--Officers.](#)
[17.20.100 Planning commission--Vacancies.](#)
[17.20.110 Planning commission--Quorum.](#)
[17.20.120 Planning commission--Meetings--](#)
[Regularity.](#)
[17.20.130 Planning commission--Meetings--To be](#)
[public--Records.](#)
[17.20.140 Planning commission--Meetings--](#)
[Procedures.](#)
[17.20.150 Planning commission--Meetings--Order of](#)
[business.](#)
[17.20.160 Planning commission--Resolution form.](#)
[17.20.170 Planning commission--Resolution](#)
[conformance.](#)
[17.20.180 Planning commission--Compensation.](#)
[17.20.190 Planning commission--Duty to council.](#)
[17.20.200 Planning commission--Hearing notice.](#)

[17.20.210 Planning commission--Platting, variance and conditional use actions.](#)

[17.20.220 Planning commission--Affirmative vote required.](#)

[17.20.230 Comprehensive plan--Contents.](#)

[17.20.240 Comprehensive plan--Adoption and modification.](#)

[17.20.250 Board of adjustment--Meetings generally.](#)

[17.20.260 Board of adjustment--Nature of appeals to be heard.](#)

[17.20.270 Board of adjustment--Procedure.](#)

[17.20.280 Board of adjustment--Judicial review.](#)

[17.20.290 Payment of fees required.](#)

17.20.010 Zoning administrator designated--Duties. A zoning administrator shall be designated by the city council to administer and enforce this title, including the specific duties set forth in this section. The zoning administrator shall:

* Prior ordinance history: Prior code §521.15.010, 21.15.020 and 21.20.010--21.20.040.

- A. Provide staff assistance to the city planning commission;
- B. Issue use permits as authorized by this title;
- C. Process all applications and appeals made under this title;
- D. Interpret and enforce this title;
- E. Maintain records and maps of all changes and activities related to this title;
- F. All funds of the commission received as fees and charges or otherwise shall be received by the city clerk and deposited in the general fund of the city as receipts of the activities of the commission. (Ord. 7-19-84 §1(part), 1984; prior code §23.25.010)

17.20.020 Planning commission--Establishment. A planning commission is established for the city to perform the functions of planning, platting and zoning. (Ord. 7-19-84 §1(part), 1984; prior code §23.25.020(part))

17.20.030 Planning commission--Duties generally. It shall be the duty of the commission to hold public hearings when necessary and make recommendations to the council on matters concerning or relating to planning and zoning, the enforcement of appropriate regulations and amendments to ordinances, or other matters within the scope of the plan- ning and zoning power. (Ord. 7-19-84 §1(part), 1-984; prior code §23.25.020(A))

17.20.040 Planning commission--Platting authority. The function of platting shall be performed from time to time by the commission, convened as the platting authority for the city, will review plats, replats, and vacation of public ways of which shall be approved or rejected by council. (Ord. 7-19-84 §1(part), 1984; prior code §23.25.020(B))

17.20.050 Planning commission--Membership. The membership of the planning commission will consist of five citizens who are residents of the city. The citizens must have resided in the city for six months in order to be a member of the planning commission. Members shall be appointed by the mayor and subject to confirmation by the city council. (Ord. 364-97 §2, 1997; Ord. 7-19-84 §1(part), 1984; prior code §23.25.020(C))

17.20.060 Planning commission--Recall of member. A member may be recalled for any of the following reasons: conflict of interest; violations of the code of ethical standards, Chapter 2.24; legal misconduct; lack of participation or other problems of a serious nature. A petition may also be signed by at least twenty citizens of the city requesting recall. This petition may be presented to the council. The council will review the petition and make a decision within twenty days. (Ord. 7-19-84 §1(part), 1984; prior code §23.25.020(D))

17.20.070 Planning commission--Appointment. Members shall be appointed by the mayor and confirmed by the council. Appointments to fill vacancies shall be for the unexpired term only. (Ord. 7-19-84 §1(part), 1984: prior code §23.25.020(E))

17.20.080 Planning commission--Term.* Members shall be appointed for a term of three years. During the current triennium the terms of Seats A and B expire in 1993; the terms of Seats C and D expire in 1992; and the term of Seat E expires in 1994. (Ord. 223-92 §1, 1992: Ord. 7-19-84 §1(Part), 1984: prior code §23.25.020(F))

17.20.090 Planning commission--Officers. The commission shall designate a member as its presiding officer to conduct the affairs of the commission, a deputy presiding officer to serve in the absence of the presiding officer, and a clerk. The clerk shall prepare the journal of the commission's proceedings. (Ord. 7-19-84 §1(part), 1984: prior code §23.25.020(G))

17.20.100 Planning commission--vacancies. A vacancy shall be declared, and filled as above provided when the member:

- A. Fails to qualify and take his office within thirty days after his confirmation by the council;
- B. Departs from the city with the intent to remain away for a period of ninety days or more or is physically absent from the area he was appointed to represent for a period of ninety or more days;
- C. Submits his resignation and the resignation is accepted by the mayor;
- D. Is physically or mentally unable to attend commission meetings for a period of more than ninety days;
- E. Misses three or more consecutive regular meetings;
- and
- F. Is convicted of a felony or of an offense involving a violation of his oath of office.

The clerk of the planning commission shall keep attendance records and notify the mayor when vacancies occur. (Ord. 7-19-84 §1(part), 1984: prior code §23.25.020(H))

17.20.110 Planning commission--Quorum. A majority of voting membership constitutes a quorum. Any act of the commission requires a majority affirmative vote of those voting members present. (Ord. 7-19-84 §1 (part), 1984: prior code §23.25.020(I))

* Editor's Note: For terms of office generally, see Section 2.34.040.

17.20.120 Planning commission--Meetings—Regularity.. Regular meetings of the planning commission shall be held on the second Tuesday of each month. Special meetings may be called by the presiding officer, or shall be called by or at the written request of two commission members. (Ord. 389-99 §2, 1999: Ord. 223-92 §2, 1992: Ord. 64, 1987: Ord. 7-19-84 §1(part), 1984: prior code §23.25.020(J))

17.20.130 Planning commission--meetings--To be public--Records. Meetings shall be public and minutes shall be kept. Minutes and records shall be filed with the clerk of the city and retained as public records. (Ord. 7-19-84 §1(part), 1984: prior code §23.25.020(K))

17.20.140 Planning commission--Meetings--Procedures. Meetings shall be conducted under Robert's Rules of Procedures, and such modified or amended rules as may be adopted by the commission. (Ord. 7-19-84 §1 (part), 1984: prior code §23.25.020(L))

17.20.150 Planning commission--Meetings--Order of business. The order of business at regular meetings shall be as follows:

- A. Approval of minutes of previous meeting, as amended or corrected;
- B. Reading and disposition of correspondence;
- C. Unfinished business;
- D. New business; and
- E. Miscellaneous business.

The order of business at special meetings shall be prescribed by the presiding officer. (Ord. 7-19-84 §1 (part), 1984: prior code §23.25.020(M))

17.20.160 Planning commission--Resolution form. All formal acts of the commission shall be by resolution bearing:

- A. The heading "City of Whittier Planning Commission";
- B. The space for the serial number to be assigned: "Resolution, Serial No. _____"
- C. A short and concise title descriptive of its subject and purposes;
- D. Short premises and whereas clauses descriptive of the reasons for the resolution, if necessary;
- E. The resolving clause, "Be it Resolved"; and
- F. Provision for signature after the text, "Adopted (date)" and designating lines for the signatures of the commission presiding officer and the city clerk. (Ord. 7-19-84 §1(Part), 1984: prior code §23.25.020(N))

17.20.170 Planning commission--Resolution conformance. All resolutions adopted by the commission whether at the instance of and presented by third parties, or on the motion of and instance of the commission, shall conform to that set forth in Section 17.20.180 and shall be on paper suitable for filing. (Ord. 7-19-84 §1(part), 1984: prior code §23.25.020(P))

17.20.180 Planning commission--Compensation. Compensation and expenses of the planning commission and its staff are paid as directed by the city council. (Ord. 7-19-84 §1(part), 1984: prior code §23.25.020(Q))

17.20.190 Planning commission--Duty to council. The planning commission shall prepare and recommend to the city council:

- A. A comprehensive plan consisting of maps and related texts for the systematic development of the city;
- B. A zoning ordinance to implement the comprehensive plan;
- C. A subdivision ordinance;
- D. The official map of the city. Said map shall include reference to zoning and other applicable restrictions prescribed by the commission; and
- E. Modification to the documents specified in subsections A through D of this section. (Ord. 7-19-84 §1(part), 1984: prior code §23.25.021(A))

17.20.200 Planning commission--Hearing notice. The commission shall publish notice of and hold at least one public hearing before submitting its recommendations under Section 17.20.190 to the council. Notice shall be published in the same manner as in the case of ordinances. (Ord. 7-19-84 §1(part), 1984: prior code §23.25.021(B))

17.20.210 Planning commission--Platting, variance and conditional use actions. The planning commission shall:

- A. Act as the platting board;
- B. Act upon requests for variances; and
- C. Act upon requests for conditional uses. (Ord. 7-19-84 §1(Part), 1984: prior code §23.25.021(C))

17.20.220 Planning commission--Affirmative vote required. Subject to any ordinance adopted pursuant to AS 29.33.245, no platting request, variance or conditional use may be granted except upon an affirmative vote of a majority of the voting members of the commission. (Ord. 7-19-84 §1(part), 1984: prior code §23.25.021(D))

17.20.230 The Comprehensive plan—Contents. The comprehensive plan provided shall be a compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the city, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan, and recommendations for plan implementation. (Ord. 7-19-84 §1(part), 1984: prior code §23.25.022)

17.20.240 Comprehensive plan--Adoption and modification. The city council shall adopt a comprehensive plan based upon a recommendation of the planning commission. The city council may modify the plan. The planning commission shall undertake an overall review of the plan at least once every two years and shall present recommendations based on the review to the city council. (Ord. 7-19-84 §1(part), 1984: prior code §23.25.030(A))

17.20.250 Board of adjustment--Meetings generally. The city council is the board of adjustment. Meetings of the board are held at the call of the mayor. The mayor may administer oaths and compel attendance of witnesses. Meetings and hearings of the board shall be open to the public. The city clerk shall keep minutes of the proceedings of the board of adjustment as a public record. (Ord. 7-19-84 §1(part), 1984: prior code §23.25.030(B))

17.20.260 Board of adjustment--Nature of appeals to be heard. The board of adjustment shall hear and decide:

- A. Appeals regarding alleged errors in enforcement of zoning ordinances and building codes;
- B. Appeals from the decisions of the planning commission of requests for conditional uses; and
- C. Appeals from the decisions of the planning commission on requests for variances from the terms of the zoning ordinances which are not contrary to the public interest, when a literal enforcement would deprive a property owner of rights commonly enjoyed by other properties in the same district. (Ord. 7-19-84 §1(part), 1984: prior code §23.25.030(C))

17.20.270 Board of adjustment--Procedure.

A. An interested party, including but not limited to a city official, may file with the board of adjustment an appeal specifying in writing his objectives and his address. Copies are filed with the administrative officer involved in the decision or enforcement and with the city clerk within thirty days from the date of the decision or enforcement involved. The officer shall provide the board with all pertinent records, including his written decision. Such material shall become part of the reading of the appeal. An appeal to the board stays enforcement proceedings unless the board or a court issues an enforcement order based on a certificate of imminent peril to life or property made by the enforcement officer.

B. The mayor shall act as the presiding officer of the board of adjustment, and shall exercise such control over the board's proceedings as is reasonable and necessary. In addition to his other duties, he shall rule upon the admissibility of evidence before the board and may limit presentations before the board to a reasonable period of time.

C. A quorum of the board of adjustment shall consist of a majority of its voting members. Decisions by the board may be made and rendered by a majority of a quorum. Only those members of the board of adjustment who have been present throughout the hearing on an appeal may vote on that appeal.

D. The following procedure shall be followed at any hearing on an appeal before the board of adjustment:

1. The appeal number and the name of the party appealing shall be read into the record;
2. The mayor shall then determine if the appellant or his agent is present. If no such person is present, the board will proceed with the hearing in such person's absence, unless the presiding officer rules that there were extenuating circumstances which prevented the appellant or his agent from appearing;
3. The presiding officer shall require the appellant to give his presentation first;
4. After the conclusion of the appellant's presentation, the official involved shall then make a presentation. That official shall answer any questions by any member of the board concerning his comments or appellant's comments;
5. The appellant shall then have the right to respond to the official's presentation;
6. All comments made by the official or the appellant shall be directed to the mayor. All questions directed toward the appellant or official shall be only by a member of the board of adjustment; and

7. All testimony before the board shall be under oath, to be administered by the city clerk.

E. An appellant may, in lieu of a personal appearance before the board of adjustment, present his appeal in writing supported by any affidavits appellant considers necessary. Such affidavits shall be filed by appellant at the time of filing the notice of appeal.

F. Appellant, other interested persons, and any official may be represented by legal counsel at the board of adjustment.

G. The burden of proof is upon the appellant to prove his case by a preponderance of the evidence.

H. The formal rules of evidence applicable to an action at law do not apply to hearings before the board of adjustment. Evidence and testimony shall be relevant to the appeal.

I. The decision of the board of adjustment on an appeal shall be by motion.

J. An appeal may not be resubmitted for at least one hundred twenty days. (Ord. 7-19-84 §1(part), 1984: prior code §23. 03,0 (D))

17.20.280 Board of adjustment--Judicial review. A municipal officer, a taxpayer, or a person jointly or severely aggrieved, may appeal an action of the board of adjustment to the superior court by filing with the City Clerk written notice within ten days of the action appealed. The notice shall specify grounds for appeal. When the notice is filed, the board shall at once transmit to the superior court clerk copies of all papers constituting the record in the case.

An appeal from the board of adjustment stays enforcement proceedings unless the court issues an enforcement order based on a certificate of imminent peril to life or property made by the board. (Ord. 7-19-84 §1(part), 1984: prior code §23.25.030(E))

17.20.290 Payment of fees required. The planning commission shall not consider any matter until there is first paid a fee as required below, except that such a fee shall not be required where the city or an official body thereof is the moving party. The amount of required fee is as follows:

A. For consideration of an application for a conditional use permit, variance application or zoning text or map amendment: twenty dollars;

B. For consideration of an application for a planned unit development: five hundred dollars per acre or a maximum fee of five thousand dollars to enable the planning commission to obtain adequate staff and/or professional assistance for a review of the proposed project;

C. The fees in this section shall be waived where the city is the developer;

D. The fee set out in subsection B of this section may be reduced or waived when the planning commission determines that no professional assistance is needed for review of the project. (Ord. 7-19-84 §1(part), 1984: prior code §23.25.040)

Chapter 17.24

NONCONFORMING USES AND STRUCTURES

Sections:

17.24.010 Purpose and intent.

17.24.020 Nonconforming uses of land.

17.24.030 Nonconforming structures.

17.24.040 Nonconforming uses and structures in combination.

17.24.050 Repairs and maintenance.

17.24.060 Nonconforming lots of record.

17.24.070 Lot reduction.

17.24.010 Purpose and intent. Within the districts established by this title or amendments thereto that may be adopted, there exist lots, structures, and uses of land and structures which were lawfully established before this title was enacted, but which would be prohibited, or restricted under the terms of this title. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is the further intent of this chapter that nonconformities shall not be enlarged upon, expanded,

nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. (Ord. 7-19-84 §1(part), 1984: prior code §23.30.010)

17.24.020 Nonconforming uses of land. Where at the time of the passage of the ordinance codified in this title, or amendment thereof, lawful use of land exists which would not be permitted by this title, the use may be continued so long as it remains otherwise lawful, provided:

A. No such nonconforming use shall be enlarged or increased, nor extended to occupy greater area of land than was occupied at the effective date of adoption or amendment of the ordinance codified in this title;

B. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of the ordinance codified in this title;

C. If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this title for the district in which such land is located;

D. No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land. (Ord. 7-19-84 § 1(part), 1984: prior code §23.30.020)

17.24.030 Nonconforming structures. Where a lawful structure exists at the effective date of adoption or amendment of the ordinance codified in this title that could not be built under the terms of this title by reason of restrictions on area, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity;

B. Should such nonconforming structures or nonconforming portion of a structure be destroyed by any means it shall not be reconstructed except in conformity with the provisions of this title;

C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after moved. (Ord. 7-19-84 §1(part), 1984: prior code §23.30.030)

17.24.040 Nonconforming uses and structures in combination. If lawful use involving individual structures, or of structure and premises in combination, exists at the effective date of adoption or amendment of the ordinance codified in this title, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No existing structure devoted to a use not permitted by this title in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except-in changing the use of the structure to a use permitted in the district in which it is located.

B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of the ordinance codified in this title, but not such use shall be extended to occupy any land outside such building.

C. Any structure, or structure and land in combination, in which a nonconforming use is superseded by a permitted use, shall conform to the regulations for the district, and the nonconforming use may not be resumed.

D. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for a period of more than one year, the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

E. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. (Ord. 7-19-84 §1(part), 1984: prior code §23.30.040)

17.24.050 Repairs and maintenance.

A. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding thirty percent of the current may be, provided that the cubic content existing when it replacement cost of the nonconforming structure as the case became nonconforming shall not be increased.

B. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repair and maintenance, and is declared by the zoning administrator to be unsafe or unlawful by reason of physical condition, it shall not there- after be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located. (Ord. 7-19-84 §1(part), 1984: prior code §23.30.050)

17.24.060 Nonconforming lots of record.

A. Where, at the effective date of the adoption of the ordinance codified in this title or amendment thereto, a lot of record was in separate ownership and cannot meet the minimum requirements for area or width, a single-family dwelling and customary accessory buildings may be erected on any single lot of re- cord, provided.

1. Such lot is in separate ownership and not of continuous frontage with other lots in the same ownership;

2. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided, that yard dimensions and requirements other than those applying to areas or width, or both, or the lot shall conform to the regulations for the district in which the lot is located. Variances of yard requirements shall be obtained only through action of the planning commission.

B. If two or more lots or combinations of lots and portions of lots with continuous frontage in single owner- ship (including husband and wife as in all cases a single owner) are of record at the effective date of adoption or amendment of the ordinance codified in this title, regard- less of diverse times of acquisition, for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this title, and no portion of said parcel shall be used or occupied which does not meet the width and area requirements established by this title. (Ord. 7-19-84 §1 (part), 1984: prior code §23.30.060)

17.24.070 Lot reduction. No lot or portion of a lot shall be divided so as to leave remaining any lot in width or area below the requirements for a legal building site as described in this title nor shall any lot or portion of a lot required for a legal building site under the provisions of this title be used as a portion of a lot required as a site for another structure. (Ord. 7-19-84 §1(part), 1984: prior code §23.30.070)

Chapter 17.28

VARIANCES, APPEALS AND CONDITIONAL USES

Sections:

17.28.010 Variance--Application.

17.28.020 Variance--Hearing.

17.28.030 Appeals--Generally.

17.28.040 Conditional use--Application--Generally.

17.28.050 Conditional use--Application--Submittal.

17.28.060 Conditional use--Commission agenda.

17.28.070 Conditional use--Approval determination.

17.28.080 Conditional use--Neighborhood character findings designated.

17.28.010 Variance—Application. Application for a variance from the dimensional requirements of this title (Table 2, as set out in Section 17.16.240) shall be made in writing to the planning commission. The application shall allege and support:

A. That special conditions exist which are peculiar to the property involved and which are not applicable to other properties in the same district;

B. That strict interpretation of this title would deprive the applicant of rights enjoyed by other properties in the same district;

C. That the special circumstances do not result from actions of the applicant and do not merely constitute financial hardship or inconvenience; and

D. That granting the variance will be in harmony with the intent of the district and not injurious or detrimental to the public welfare or surrounding environment. (Ord. 7-19-84 §1(part), 1984: prior code §23.35.010(A))

17.28.020 Variance--Hearing. A public hearing shall be scheduled and not less than fifteen days prior to the hearing, a public notice shall be posted and notice given to property owners within five hundred feet of the property being appealed. The concurring vote of a majority of the fully constituted membership of the planning commission shall be required to grant a variance. A request for variance may be initiated only by the property owners or his authorized agent. (Ord. 7-19-84 §1(part), 1984: prior code §23.35.010(B))

17.28.030 Appeals--Generally. Appeals concerning decisions made by the planning commission or zoning administrator shall be made to the city council, serving as a board of adjustment. The council shall be authorized to grant such appeals as will not be contrary to the public interest, where upon good cause shown, a strict enforcement of the provisions of this title will result in undue hardship, other than financial or self-imposed hardship, and so that the spirit of this title shall be observed and substantial justice done. The concurring vote of a majority of the fully constituted membership of the council shall be necessary to reverse a decision of the planning commission or zoning administrator. (Ord. 7-19-84 §1(part), 1984: prior code §23.35.020)

17.28.040 Conditional use--Application--Generally. Procedure for applying for a conditional use shall be as set out in Sections 17.28.050 through 17.28.080. (Ord. 7-19-84 §1(part), 1984: prior code §23.35.030(part))

17.28.050 Conditional use--Application submittal. A written application shall be submitted to the zoning administrator. Application shall include reference to the applicable section of this title, description of the proposed use or structure, a statement indicating how the proposed use is appropriate to the area and a site plan showing the exact location of all buildings and structures on the site, vehicular and pedestrian circulation, and parking areas. (Ord. 7-19-84 §1(part), 1984: prior code §23.35.030(1))

17.28.060 Conditional use--Commission agenda. The application will be placed on the agenda of the next regular meeting of the planning commission. Due notice shall be given to the adjoining lot owners fifteen days prior to the planning commission's meeting. (Ord. 7-19-84 §1(part), 1984: prior code §23.35.030(2))

17.28.070 Conditional use--Approval determination. Approval shall be given only if the planning commission determines that the proposed development will occur harmoniously with other uses allowed in the district and with the general existing neighborhood character, will not present hazards to safety, health, comfort and repose and will be adequately serviced by existing utilities, or utilities included as part of the development. In granting approval, the planning commission shall stipulate a time limit within which the conditional use shall be completed, and failure to meet the time limit set shall void the conditional use. Approval shall be granted only by a concurring vote of a majority of the fully constituted membership of the planning commission. (Ord. 7-19-84 §1(part), 1984: prior code §23.35.030(3))

17.28.080 Conditional use--Neighborhood character findings designated. "Neighborhood character" findings shall include:

A. Density. The proposed conditional use shall not unduly increase the number of people or buildings per lot above that of the surrounding neighborhood.

B. Appearance and View Protection. The proposed conditional use shall blend in with the general neighborhood appearance and should not excessively deprive neighbors of views and solar access.

C. Property Values. The proposed conditional use shall not adversely affect property values in the neighborhood.

D. Parking. The parking and loading spaces for the proposed conditional use shall be adequate, safe and properly designed to prevent excessive noise, danger or parking problems for occupants, neighbors and pedestrians.

E. Drainage. The area shall be properly drained to prevent additional drainage problems for neighbors.

F. Peak Use. The proposed development shall not have significantly different peak use or occupancy characteristics than the surrounding neighborhood. (Ord. 7-19-84 §1(part), 1984: prior code §23.35.030(4))

Chapter 17.32

AMENDMENTS

Sections:

17.32.010 Council authority.

17.32.020 Initiation of procedures.

17.32.030 Application by council or commission--Submittal.

17.32.040 Application by council or commission--Information required.

17.32.050 Application by council or commission--Hearing.

17.32.060 Application by council or commission--Recommendation and action

17.32.070 Application by private landowner--Application.

17.32.080 Application by private landowner--Hearing.

17.32.090 Rezoning of entire city.

17.32.100 Building permits--Temporary suspension.

17.32.010 Council authority. The city council may, from time to time, amend, supplement or repeal the regulations and provisions of this title. (Ord. 7-19-84 §1(part), 1984: prior code §23.40.010)

17.32.020 Initiation of procedures. Amendments to the text of this chapter may be initiated by the city council or the city planning commission. Amendments to the zoning district map may be initiated by the city council, the city planning commission, or by a real property owner in the area to be included in the proposed amendments. (Ord. 7-19-84 §1(part), 1984: prior code §23.40.020)

17.32.030 Application by council or commission--Submittal. Application for amendments to the text of this title or to the zoning district map proposed by the planning commission or the city council may be submitted at any time. (Ord. 7-19-84 §1(part), 1984: prior code §23.40.030(A))

17.32.040 Application by council or commission--Information required. Any application to change the zoning district map shall include an accurate map or other sufficient legal description of the area included in the proposed change, the names and addresses of owners of real property in the area proposed for change, and any additional information the planning commission requires. (Ord. 7-19-84 §1(part), 1984: prior code §23.40.030(B))

17.32.050 Application by council or commission--Hearing. The planning commission shall hold a public hearing on the proposed amendment, provided that notice of such hearing shall be given as follows:

A. Notice shall be published once in a newspaper of general circulation in the city at least fifteen days prior to the hearing date.

B. A written notice of said hearing shall be sent by first class mail at least fifteen days prior to the hearing date to property owners within the area of proposed change and within five hundred feet thereof. (Ord. 7-19-84 §1(part), 1984: prior code §23.40.030(C))

17.32.060 Application by council or commission--Recommendation and action. The planning commission shall make a recommendation to the city council on the proposed amendment and the city council may take action by ordinance. (Ord. 7-19-84 §1(part), 1984: prior code §23.40.030(D))

17.32.070 Application by private landowner--Application. Rezoning applications by private individuals shall be heard by the planning commission during regular meetings. Public notice by one publication in the newspaper and posting, that a rezoning application has been received shall be made not later than fifteen days prior to the meeting. The application shall include an accurate map of the area included in the proposed change, and, in addition, must include:

- A. The names and addresses of all owners of real property in the area of the proposed change;
- B. The names and addresses of all owners of real property within five hundred feet of the area of the proposed change;
- C. The signature of the applicant, who shall be an owner of real property in the area of the proposed change;
- D. A petition in favor of the amendment, signed by real property owners representing eighty percent of the land area included in the application, if property other than that owned by the applicant is affected;
- E. All information required by the planned unit development section if the change is to that designation. (Ord. 7-19-84 §1(part), 1984: prior code §23.40.040(A))

17.32.080 Application by private landowner--Hearing. The planning commission shall hold a public hearing on the proposed amendment, provided that notice of such hearing shall be given as follows:

- A. Notice shall be published once in the newspaper at least fifteen days prior to the hearing date.
- B. A written notice of said hearing shall be sent by first class mail at least fifteen days prior to the hearing date to property owners within the area of proposed change and within five hundred feet thereof. (Ord. 7-19-84 §1(part), 1984: prior code §23.40.040(B))

17.32.090 Rezoning of entire city. Whenever the zoning district map is to be changed or amended incidental to or as part of a general revision of this title, an enactment of a new zoning ordinance, the requirements of Sections 17.32.040 and 17.32.050B may be waived. However, the proposed zoning map shall be available for public inspection in the city clerk's office during all business hours for fifteen days prior to the public hearing on such amendments. (Ord. 7-19-84 §1(part), 1984: prior code §23.40.050)

17.32.100 Building permits--Temporary suspension. whenever the city council has adopted a resolution granting approval of an amendment to this title, no building permits shall be issued which would be prohibited by the proposed amendment for a period of one year following the date of such council resolution; provided however, if the city council should, by resolution, refuse to further consider such amendment, or if an ordinance adopting the proposed amendment, or an amendment substantially similar to the proposed amendment, has not been passed on second reading by the city council within the one-year time period, all building permits applied for during such period which otherwise conform to the existing zoning regulations shall be issued. (Ord. 7-19-84 §1(part), 1984: prior code §23.40.060)

Chapter 17.36

ENFORCEMENT

Sections:

- 17.36.010 Interpretation--Conflict with other laws.**
- 17.36.020 Permit--Revocation and invalidation.**
- 17.36.030 Permit--Required.**
- 17.36.040 City liability.**

17.36.010 Interpretation--Conflict with other laws.

A. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety and welfare.

B. Whenever the requirements of this title are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances or other legislative actions, the more restrictive, or that imposing the higher standard, shall govern. (Ord. 7-19-84 §1(part), 1984: prior code §23.45.010)

17.36.020 Permit--Revocation and invalidation. Any permit authorized by this title issued in reliance upon any materially false statement in the application therefor, or in supporting documents or oral statements, is absolutely void and is revoked. (Ord. 7-19-84 §1(part), 1984: prior code §23.45.020)

17.36.030 Permit--Required. It is unlawful to perform significant grading work, tree removal or other landscape alteration or to erect, construct, reconstruct, alter, move or change the use of any building, sign or other structure or improvement within the city without obtaining a permit from the city zoning administrator. (Ord. 7-19-84 §1(part), 1984: prior code §23.45.030)

17.36.040 City liability. This title shall not be construed to hold the city or its authorized agents responsible for any damage to property or injury to persons by reason of inspection authorized herein, or failure to inspect, or by reason of issuance of a building permit as herein provided. (Ord. 7-19-84 §1(part), 1984: prior code §23.45.050)

Chapter 17.40

VIOLATIONS

Sections:

- 17.40.010 Designated.**
- 17.40.020 Action to abate.**
- 17.40.030 Penalty imposition not to preclude further action.**
- 17.40.040 Remedies to be cumulative**
- 17.40.050 Violation--Penalty.**

17.40.010 Designated. The erection, construction, reconstruction, alteration, moving, conversion or maintenance of any building or structure and the use of any land, structure or building which is continued, operated or maintained contrary to any provisions of this title, is declared to be a violation of this title and unlawful. (Ord. 7-19-84 §1(part), 1984: prior code §23.45.040(A))

17.40.020 Action to abate. The city attorney shall, immediately upon such violation being called to his attention, institute injunctive, abatement, or other appropriate action to prevent, enjoin, abate or remove such violation. Such right of action shall also accrue to any property owner who may be especially damaged by any violation of this title. (Ord. 7-19-84 §1(part), 1984: prior code §23.45-.040(C))

17.40.030 Penalty imposition not to preclude further action. The imposition of any penalty hereunder shall not preclude the city or affected property owner from instituting any appropriate action or proceeding to require compliance with the provisions of this title. (Ord. 7-19-84 §1(part), 1984: prior code §23.45.040(D))

17.40.040 Remedies to be cumulative. Any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. (Ord. 7-19-84 §1(part), 1984: prior code §23.45-.040(E))

17.40.050 Violation--Penalty. Any person or corporation, whether as principal, agent or employee, who violates any provision of this title shall be, for each offense, punished by a fine of not more than five hundred dollars. Each day any violation of this zoning ordinance continues will constitute a separate offense. (Ord. 7-19-84 §1(part), 1984: prior code §23.45.040(B))